

**CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
June 7, 2005 Agenda
6:00 p.m. Closed Session
7:00 p.m. Public Business
455 E. Calaveras Boulevard**

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

**1. Conference with Labor Negotiator – Collective Bargaining
Organizations Representing Milpitas Police Officers Association, International Association
of Fire Fighters, PROTECH; regarding wages, hours, benefits, working conditions.
Agency Negotiator: Art Hartinger**

**2. Conference with Real Property Negotiators, Property: 94 Winsor Avenue, Milpitas,
CA, Agency Negotiators: Mark Rogge and Richard Pio Roda. Negotiating Party:
Mountain Air HVAC**

OPEN SESSION 6:30 p.m.

Open Government Ordinance Training for the Council

**III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if
required pursuant to Government Code Section 54957.1, including the vote on abstention
of each member present**

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. APPROVAL OF MINUTES (May 10, 2005 and May 17, 2005)

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Presentation

- Special Presentation from the Tobacco Control Coalition of Santa Clara County

Commendations

- Milpitas High School Artificial Intelligence Robotics Club

Certificate of Appointment

- David Sandhu, Parks, Recreation & Cultural Resources Commission, Alternative No. 1

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under three minutes. As an unagendized item, no

response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendaize the item for a future meeting.

IX. ANNOUNCEMENTS

X. ANNOUNCEMENT OF CONFLICT OF INTEREST

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with Asterisks)

XIV. PUBLIC HEARINGS

- 1. Introduce Ordinance No. 124.27 Amending Title XI Chapter 30 (Signs), Amending Title XI-10 (Planning, Zoning and Annexation) and Amending Chapter V-500 (Neighborhood Beautification) of the Municipal Code to Enhance the Code Enforcement Program (P-ZT2004-2) (Staff Contact: Tambri Heyden, 586-3280)**
- 2. Approve Fairfield Midtown Vesting Major Tentative Tract Map (MA2005-4) Application to Create Two Parcels, Located at Corner of Abel, Main and Great Mall Parkway and Create 481 Condominium Units (APN's: 086-12-015, 016, 020) Zoned R4-TOD (multi family very high density with a transit oriented overlay): Applicant: Fairfield Residential LLC (Staff Contact: Troy Fujimoto, 586-3287) (CONTINUED)**

XV. UNFINISHED BUSINESS (None)

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (May 17, 2005)

RA4. Approval of Agenda

RA5. Receive Progress Report On Design of the Library and the Midtown East and West Parking Garages (Project Nos. 8162, 8161, & 8170) (Staff Contact: Mark Rogge 586-3403)

***RA6. Final Acceptance of the 2005-2006 Operating Budget and Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**

RA7. Agency Adjournment

XVII. REPORTS OF OFFICERS AND BOARDS

City Council

- 3. Approve the Mayor's appointments to the Library Commission, Citizens Emergency Preparedness Advisory Commission, and Open Government Commission: Consider Mayor's Request to Extend Public Outreach for Persons Interested in Being Commissioners on the Open Government Commission until June 9, 2005 for Appointment June 21, 2005 (Mayor Esteves, 586-3029)**

4. **Request for Donation: Child Spree Program Sponsored by Milpitas Kiwanis and Mervyn's (Mayor Esteves, 586-3029)**
5. **Consider Resolution of Support for AB 985 (Contact: Vice Mayor Gomez , 586-3031)**

Sisters Cities Commission

- * 6. **Approve Budget Request From the Sister Cities Commission for Materials Supporting 2005 Tsukuba City Cultural & Student Exchange Visit (Staff Contact: Leslie Stobbe, 586-3352)**

XVIII. NEW BUSINESS

- * 7. **Approve Names for Elmwood Project Public and Private Streets (SN2005-1): Applicant: KB Home South Bay Inc. (Staff Contact: Troy Fujimoto, 586-3287)**
- * 8. **Authorize Staff to Apply Individual Donations or Sponsorships of \$1,000 or Less for Recreation Programs and Authorize Teen Center and Youth Advisory Commission Event Fees Be Used to Supplement Teen Center and Youth Advisory Commission Budget (Staff Contact: Bonnie Greiner, 586-3227)**
- * 9. **Receive Status Report on the North San Jose Development Policies Update (Staff Contact: Tambri Heyden, 586-3280)**
- 10. **Financial/Statistical Reports Relating to Salary and Benefits Compensation, Salary and Benefits Surveys, and General Fund Projection for the Next Three Years (Staff Contact: Emma Karlen, 586-3145)**
- 11. **Request Further Direction From Council As To Whether City Commissions, Boards, Committees And Other City "Policy Bodies" Should Be listed In The City Council Handbook As An Appendix Which Describes Each Policy Bodies' Primary Functions (Staff Contact: Richard Pio Roda, 586-3040)**
- 12. **Request Further Direction From Council As To Whether (1) The City Should Draft For The Council's Consideration A Zoning Ordinance Amendment Temporarily Prohibiting Medical Marijuana Dispensaries In The City To Allow Staff Time To Further Study The Issue Or (2) Draft An Ordinance Regulating Medical Marijuana Dispensaries In The City Of Milpitas (Staff Contact: Richard Pio Roda, 586-3040)**
- 13. **Consider Request from Milpitas Alliance for the Arts for the City to Contribute \$10,000 to be Used for Future Art in Your Park Projects (Contact: Bonnie Greiner, 586-3227)**

XIX. ORDINANCES

- * 14. **Adopt Ordinance No. 268 Of The City Of Milpitas Levying Special Taxes Within The City Of Milpitas Community Facilities District No. 2005-1 (Public Services) (Staff Contact: Emma Karlen, 586-3145)**
- * 15. **Adopt Ordinance Nos. 120.43 and 208.40 of Title VIII Chapters 1 and 2 Setting Utility Rates (Staff Contact: Darryl Wong, 586-3345)**

XX. RESOLUTIONS

- * 16. **Adopt Resolution of Intention to Levy Assessment for Fiscal Year 2005-2006, Preliminary Approving the Annual Engineer's Report and Providing for Notice of Public Hearing: Landscaping and Lighting Maintenance Assessment District No 98-1, Sinclair Horizon, Program 9489 (Staff Contact: Mehdi Khaila, 586-3328)**
- * 17. **Adopt Resolution of Intention to Levy Assessment for Fiscal Year 2005-2006, Preliminary Approving the Annual Engineer's Report and Providing for Notice of Public Hearing: Landscaping and Lighting Maintenance Assessment District No 95-1, McCarthy Ranch, Program 9474 (Staff Contact: Mehdi Khaila, 586-3328)**

XXI. BIDS AND CONTRACTS

- * 18. **Approve the First Option Year of the Contract with Prolific Screen Printing for the Annual Public Works Garment Purchase (Staff Contact: Chris Schroeder, 586-3161)**
- * 19. **Award Bid for Community Center Furniture (Staff Contact: Chris Schroeder, 586-3161)**
- * 20. **Award Bid for Printing the Milpitas Activity Guide (Staff Contact: Chris Schroeder, 586-3161)**
- * 21. **Amend Master Services Agreement With Gregory B. Bragg & Associates To Extend The Current Agreement Through October 31, 2005 And Increase The Contract Amount Based Upon An Additional Four (4) Months Of Monthly Billings (Staff Contact: Carmen Valdez, 586-3086)**
- * 22. **Amend Master Services Agreement With Peelle Technologies To Increase The Contract Amount By \$11,700 For Implementation Services Required To Complete A Software Upgrade To The City's Document Imaging System (Project No. 8131). (Staff Contact: Terry Medina, 586-2703)**
- * 23. **Approve Renewal Of Annual Software Support And Maintenance Fees With Various Vendors Through June 2006 (Staff Contact: Terry Medina, 586-2703)**
- * 24. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: 2005 ADA Sidewalk Ramps (Project No. 4226) (Staff Contact: Doug De Vries, 586-3313)**
- * 25. **Approve Release of Retention: HMH Incorporated, Montague Expressway Widening Project No. 4179 (Staff Contact: Greg Armendariz, 580-3317)**
- * 26. **Reject Bids: Berryessa Pump Station, Project No. 8138 (Staff Contact: Doug De Vries, 586-3313)**
- * 27. **Authorize the City Manager to Execute The Agreement Amendment: Harris & Associates, Milpitas Library Off Site Utility Improvements, Project No. 8153, (Staff Contact: Mark Rogge 586-3403)**

XXII. CLAIMS AND DEMANDS

- * 28. **Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

- * 29. **Approve Budget Appropriation: Building Improvements, Project No. 8135 (Staff Contact: Greg Armendariz, 586-3317)**
- * 30. **Authorize the Purchasing Agent to Dispose of Surplus Police Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)**

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 21, 2005, AT 7:00 P.M.**

B E C O M E A C I T Y C O M M I S S I O N E R !

Currently, there are openings on the following City Commissions:

- ▶ **Citizens Emergency Preparedness Advisory Commission**
- ▶ **Library Advisory Commission**
- ▶ **Open Government Commission**

Applications are available online at www.ci.milpitas.ca.gov or in the Agenda rack outside the Council Chambers. Contact the City Clerk's Office (586-3002) for information.

CITY OF MILPITAS
Agenda Reports
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6:00 p.m. Closed Session
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XIV. PUBLIC HEARINGS

- 1. Introduce Ordinance No. 124.27 Amending Title XI Chapter 30 (Signs), Amending Title XI-10 (Planning, Zoning and Annexation) and Amending Chapter V-500 (Neighborhood Beautification) of the Municipal Code to Enhance the Code Enforcement Program (P-ZT2004-2) (Staff Contact: Tambri Heyden, 586-3280)**

Background: City Council Actions:

At the **May 18, 2004** meeting, the Council approved a proposal to expand the City's code enforcement program by proceeding with amendments to the Neighborhood Beautification, Sign and Zoning Ordinances. The amendments were intended to reduce notification timeframes, add administrative citations to the sign code, enable fines without notice for certain violations and require temporary sign registration.

On December 21, 2004, the City Council considered the first reading of the amendments to these ordinances and directed staff to return to the Council in 90 days after achieving greater consensus for the amendments from the Sign Code Task Force. The Council also directed that, upon return of the amendments, the proposal to transition to proactive code enforcement not be included.

On March 15, 2005, the City Council again considered the first reading of this ordinance. The Council directed staff to re-advertise a public hearing for April 5, 2005 and reintroduce the ordinance incorporating sign code enforcement options such as:

1. Reduction of fines and/or
2. A sliding scale that penalizes more heavily those that take a longer period to comply by providing a greater amount of time to comply with a first violation notice or
3. Elimination of fines

Reducing Fines and Sliding Scale:

The Council's agenda materials contain a background report and matrix and ordinance that has been revised since the March 15th Council meeting to incorporate fines reduced by 50%, as well as the sliding scale option. These changes, along with the proposed outreach program, would reduce financial impacts to the business community and provide more time for compliance before a fine is levied for non-compliance. The 50% fine reduction for a first violation, for example, would be \$50 as opposed to the \$100 currently assessed for zoning and NBO first violations. If both the reduced fine and sliding scale options are adopted, the staff time and cost incurred up to the point of issuing a citation notice (fine) is 3 hours (\$147).

At the **April 5, 2005** meeting, the City Council continued this item to April 19, 2005, to await a legal determination from the City Attorney on whether the full City Council can take part in the deliberations on this Ordinance. This proposed ordinance has been readvertized for hearing and introduction.

At its **April 19, 2005** meeting, the City Council continued this item to a future date to await receipt of a written FPPC (Fair Political Practices Commission) determination regarding conflict of interest. This action was taken after the City Council on April 5, 2005 continued this item to April 19, 2005, to await legal determination of whether the full City Council can take part in the deliberations on this proposed ordinance.

Elimination of Fines:

Elimination of fines would result in Sign Ordinance implementation similar to that used currently. Courtesy letters would be sent to those violating the ordinance. Most violators would comply and make their signs conform to the ordinance. Some violators would not comply, resulting in long-term enforcement requiring many hours of staff time and resulting in long-term impacts on their neighbors. Department data shows that over the past year the time to comply with sign code courtesy violations has doubled without the ability to enforce. If the Council chooses this option, Section 11.03 would need to be deleted and Section 9.04 would need to be renamed and modified as shown on the attachment in the Council's agenda materials called "No Fine Option".

Modification of NBO to Allow Appeal of a Decision of the City Manager:

The abatement procedure proposed for the Sign Code and the Zoning Ordinance is identical to that of the NBO with one exception. At the time the NBO was adopted, the City Council decided that the decision of the City Manager at an administrative hearing on abatement of a nuisance was final and could not be appealed to the City Council. However, the Sign Task Force recommended that the abatement procedure language be included with an additional provision allowing appeal of a decision of the City Manager for the Sign Code (30-9.06(g)), Zoning Ordinance (Section 26) and NBO. This NBO language is incorporated in Section 6 of the Ordinance on page 35. Adding this language to the NBO would be a departure from a decision by the City Council at the time the NBO was adopted. At that time the City Council felt that a decision of the City Manager should be final. The City Council may decide to keep the proposed language in Section 6 (page 35 of the ordinance) for the NBO or delete it to reflect the original position of the City Council.

Line of Sight Triangle:

In addition to reflecting enforcement options, the reintroduction of Ordinance 124.27 contains a new subsection (4)(g) under open house directional sign (3.09 (o)) and garage sale sign regulations (3.09 (i)) to clarify the line of sight hazard issue raised at the March 15th Council meeting. Based on real estate sign height information provided by the real estate industry, it is proposed that such signs over 3 feet in height cannot be placed on a public sidewalk or other public right-of-way area if within the 45 foot line of sight triangle.

Political Sign Section:

At the December 3, 2004 Sign Code Task Force meeting, when the Task Force's work was thought to be done, the Task Force discussed making changes to the political sign section of the sign code to limit the maximum aggregate area of political signs per candidate on a parcel. Since political signs were not being modified at this time, staff suggested that the Task Force include this recommendation in their recommendation of support of the proposed ordinance so that if the Council desired, the City Attorney could be directed to make the change at a later date.

Environmental Review:

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that the ordinance text amendments may have a significant effect on the environment. The proposed text amendments will reorganize and clarify the Sign Ordinance, address

violations in the Sign Ordinance and NBO and provide for Administrative Citation authority in the Zoning Ordinance. These changes will not have a significant effect on the environment.

Recommendation:

1. Close the public hearing.
2. Waive reading beyond title.
3. Introduce Ordinance No. No. 124.27.
4. Authorize proposed outreach program and continuation of quarterly task force meeting for one year after adoption of the ordinance.
5. Authorize proceeding with modifying the political sign section of the sign code to add a provision limiting the maximum aggregate area of political signs per candidate on a parcel.

2. **Approve Fairfield Midtown Vesting Major Tentative Tract Map (MA2005-4) Application to Create Two Parcels, Located at Corner of Abel, Main and Great Mall Parkway and Create 481 Condominium Units (APN's: 086-12-015, 016, 020) Zoned R4-TOD (multi family very high density with a transit oriented overlay): Applicant: Fairfield Residential LLC (Staff Contact: Troy Fujimoto, 586-3287) (CONTINUED)**

Background: The applicant is requesting a continuance of this item to the June 21, 2005, City Council meeting to work out outstanding issues and to allow additional time to finalize the related Owner Participation Agreement.

Recommendation: Keep the public hearing open and continue the project to the June 21, 2005, City Council meeting.

XV. UNFINISHED BUSINESS (None)

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (May 3, 2005)

RA4. Approval of Agenda

RA5. Receive Progress Report On Design of the Library and the Midtown East and West Parking Garages (Project Nos. 8162, 8161, & 8170) (Staff Contact: Mark Rogge 586-3403)

Background: The architect for the library continues with the Design Development phase. The architect for both the Midtown East and West parking garages has started the Conceptual Design phase. Both projects are included in the Capital Improvement Program, and staff will give a brief presentation on the progress of the designs at the Joint Redevelopment Agency and City Council Meeting.

Recommendation: Receive the progress report on the design of the library and the Midtown East and West parking garages.

- *RA6. Final Acceptance of the 2005-2006 Operating Budget and Capital Improvement Program (Staff Contact: Emma Karlen, 586-3145)**

Background: During the May 10, 2005 Budget Public Hearing, the City Council conceptually approved the City/Agency Proposed FY 05-06 Annual Budget, the FY 2005-06 Capital Improvement Program (CIP) Budget and the Five Year Capital Improvement Program (2005-2010). Based on actions conceptually approved by the Council, the attached Resolutions are submitted for the Council's approval of the Final 2005-06 Annual Budget totaling \$143,021,842.

The Final Operating Budget, CIP Budget, and Five Year Capital Improvement Program will incorporate changes identified in the modification memo included in this packet. The published Final Budget Documents will be distributed to the City Council prior to the September 6, 2005 Council Meeting.

Recommendation: Adopt and approve the following:

1. A Resolution adopting the FY 2005-06 Appropriations Limit of \$53,879,417 for the City of Milpitas.
2. A Joint Resolution of the City and Redevelopment Agency approving the City's Final FY 2005-06 Budget of \$143,021,842.
3. A Joint Resolution of the Milpitas Redevelopment Agency and the City of Milpitas making findings following a Public Hearing for use of Redevelopment funds.
4. A Resolution of the Milpitas Redevelopment Agency authorizing payments to the City of Milpitas pursuant to the Second Amended and Restated Public Works Agreement.
5. A Resolution of the Milpitas Redevelopment Agency determining that the planning and administration expenses to be funded in FY 05-06 by the Housing Reserve Fund are necessary for the production, improvement and/or preservation of affordable housing for the low and moderate-income households.
6. The FY 2005-06 Capital Improvement Budget of \$33,402,713.
7. The Five-year Capital Improvement Program for the Fiscal Years 2005-06 through 2009-10 of \$125,705,713.

RA7. Agency Adjournment

XVII. REPORTS OF OFFICERS AND BOARDS

City Council

3. **Approve the Mayor's appointments to the Library Commission, Citizens Emergency Preparedness Advisory Commission, and Open Government Commission: Consider Mayor's Request to Extend Public Outreach for Persons Interested in Being Commissioners on the Open Government Commission until June 9, 2005 for Appointment June 21, 2005 (Mayor Esteves)**

Background: Mayor Esteves is recommending the following appointments and reappointments to City commissions:

Citizens' Emergency Preparedness Advisory Commission

Appoint Clifford Baughn as the Industry Representative with a term expiring in June 2008.

Appoint John Pilger from Alternate No. 1 to an existing vacancy with a term expiring June 2007.

Appoint Nancy Gampon to Alternate No.1 position from Alternate No. 2 with a term expiring June 2007.

Appoint William Nolan to the Alternate No. 2 position with a term expiring June 2007.

Library Advisory Commission

Appoint Yu-Lan Chou from the Alternate No. 1 position to an existing vacancy with a term expiring June 2006.

Appoint Lynne Estandarte from the Alternate No. 2 position to an existing vacancy with a term expiring June 2006.

Appoint Elpidio Estioko to the Alternate No. 1 position with a term expiring June 2007.

Appoint Ha Phan to the Alternate No. 2 position with a term expiring June 2007.

Open Government Commission

Appoint Denny Weisgerber to an existing vacancy with a term expiring June 2007.

Appoint Tom Valore to an existing vacancy with a term expiring June 2007.

Appoint Jim Rabe to an existing vacancy with a term expiring June 2007.

Appoint Dinnah Cafibang to an existing vacancy with a term expiring June 2007.

Copies of current applications for these commissions are included in the Council's agenda packets.

For the Council's information, a copy of the City Council Subcommittee on Appointments recommendations is also included in the Council's agenda packets.

Mayor Esteves further requests that the Council consider extending the time for public outreach for persons interested in being appointed to the Open Government Commission to June 9, 2005 to be approved by the Council at its June 21, 2005 City Council meeting.

Recommendation: Approve the Mayor's appointments to Commissions and request to extend the time for public outreach for persons interested in serving on the Open Government Commission to June 9, 2005 to be appointed by the Council at the June 21, 2005 meeting.

4. Request for Donation: Child Spree Program Sponsored by Milpitas Kiwanis and Mervyn's (Mayor Esteves)

Background: Prior to the beginning of school each fall, the Child Spree Program, sponsored by the Kiwanis Club of Milpitas and Mervyn's, provides the opportunity for underprivileged children to purchase school clothes and supplies. Mike Mendizabal, President the Milpitas Kiwanis Club, has sent an email requesting a City donation of \$1,500 to the Child Spree Program. Copy of request is included in Council's agenda packet. For the past several years the City has contributed to this event in varying amounts -- \$500, \$1,000, or \$1,500.

Sufficient funds are appropriated in the Council's Community Promotions Budget for FY05/06, and currently no other requests have been received.

Recommendation: Consider donation to the Child Spree Program from City Council's Community Promotions Fund

5. Consider Resolution of Support for AB 985 (Contact: Vice Mayor Gomez (586-3031))

Background: Existing law provides that employers may not discharge or in any manner discriminate against specified employees. AB 985 would prohibit an employer discharging or discriminating against an employee for taking time off to perform active military duty as a member of the militia of this state. Vice Mayor Gomez is requesting the City Council consider a resolution of support for Assembly Bill 985 as introduced by Assemblymember Alberto Torrico.

Recommendation: Consider resolution supporting AB 985.

Sisters Cities Commission

- * 6. **Approve Budget Request From the Sister Cities Commission for Materials Supporting 2005 Tsukuba City Cultural & Student Exchange Visit (Staff Contact: Leslie Stobbe, 586-3352)**

Background: On February 17, 2004, the City of Milpitas updated and extended its Memorandum of Understanding (MOU) with the City of Tsukuba, formerly the Town of Kukizaki, Japan, through December 2008. On June 17 – 25, 2005, Sister Cities Commissioner Vice Chair Echo Arthur will lead a group of four (4) adult delegates and three (3) exchange students from Milpitas middle schools on this ninth sister city visit to Japan. The delegates and students' families pay all travel expenses.

Included in the Council packet is the itinerary for the Milpitas delegation, facilitated by Ms. Arthur with Milpitas community representatives and Ms. Yutaka Suzuki, Tsukuba's Manager of the International Relations Division. The budget request outlined below includes appropriate gifts for ceremonial and greeting purposes.

The Commission reviewed expenses for City of Milpitas ceremonial and greeting gifts at its May 26, 2005, meeting and recommends the following be provided:

Item	Purpose/Event	Requested Amount for Council Approval
Art supplies for City Gift	Vase & base created by MHS for official city gift	\$350.00
50 th Anniversary Books	Adult gift bag item (8)	200.00
Chamber of Commerce wine glass sets	Adult gift bag item (8 sets of 2 glasses)	96.00
Wrapping materials	Adult gift bag presentation	45.00
TOTAL		\$691.00

Council budget approval for fiscal year 2004-05 provides up to \$2,600 per sister city per year for a total budget of \$7,800. Including expenses of \$1,992.57 to support the August 2004 visit from Tsukuba and a \$300 unexpected expense to host Mayor Fujisawa's delegation on July 5, 2004, an amount for Tsukuba City. An amount of \$607.43 remains. The commission requests exceeding this budget by \$83.57 to cover actual costs supporting this visit. Overall funding for sister cities exists in Council's Community Promotions budget.

Recommendation:

1. Approve expenses for the Tsukuba City June 2005 cultural and student exchange from the Council's Community Promotions budget.
2. Authorize the City Manager to approve invoices not-to-exceed \$691.

XVIII. NEW BUSINESS

- * 7. **Approve Names for Elmwood Project Public and Private Streets (SN2005-1):**
Applicant: KB Home South Bay Inc. (Staff Contact: Troy Fujimoto, 586-3287)

Background: In January 2005, the City Council approved the Elmwood Residential and Commercial Development project. Approvals included associated General Plan Amendment and Rezone, as well as a Vesting Major Tentative Map (MA2003-4). At the time of approval, the map designated placeholder street names such as “A”, “B” and “C” to denote public and private streets. Final street names are usually included in the Final Map which is reviewed and approved by the City Council. However, because the public streets will be required to be in place sooner than construction of the residential development, the street names are being presented to the Council separate from the Final Map.

In October 2004, the Planning Commission approved the final names from the Vesting Major Tentative Map to the time of ability to defer the Final Map since the applicant was holding a raffle with the Milpitas Unified School District for naming one of the public streets in the project.

Within the project, there will be three (3) new public streets and eleven (11) private streets. The names and locations of the streets are provided as part of the Council’s agenda material attachments. Two of the proposed public street names are from the Planning Commission’s approved list of street names (Machado and Thompson). The third public street name (Alvarez) was named by the Milpitas Unified School District raffle winner. The private street names are proposed by the developer and are all Spanish words that have peace, joy and happiness meanings.

All of the public and private street names have been cleared by the City’s Police dispatch unit as well as by the Building Division for easy use and no confusion with other existing City street names. The applicant is amenable to all of the street names.

Recommendation: Approve the proposed three (3) public street names and eleven (11) private street names.

- * 8. **Authorize Staff to Apply Individual Donations or Sponsorships of \$1,000 or Less for Recreation Programs and Authorize Teen Center and Youth Advisory Commission Event Fees Be Used to Supplement Teen Center and Youth Advisory Commission Budget (Staff Contact: Bonnie Greiner, 586-3227)**

Background: Recreation Services periodically receives donations and sponsorships designated for a variety of programs including Rainbow Theatre, Community Concert Band, Teen Center, Senior Center, Special Events, and Preschool. These donated funds could be used to supplement program costs such as registration fees for band tournaments, scholarships for Rainbow Theatre and additional supplies or services to directly benefit the program receiving the donation. Recreation Services has worked with the Finance Department to establish a holding account to accurately track these funds. Staff is requesting that future individual donations and sponsorships of \$1,000 or less be used at the discretion of Recreation Services to supplement the program budget. If the individual donations and sponsorships are greater than \$1,000, in order to apply the funds to Recreation program budget, staff must agendize the request and obtain Council’s approval.

Staff is also requesting that event fees for Teen Center and Youth Advisory Commission sponsored events be allowed to apply to the Teen Center’s operating budget, which will

supplement the cost of needed equipment and supplies that will directly benefit the teens who utilize the Teen Center. If the event fees are greater than \$1,000, in order to apply the funds to the Teen Center budget, staff must agendize the request and obtains Council's approval.

Recommendation:

1. Authorize staff to apply individual donations and sponsorships to Recreation Services that are \$1,000 or less to Recreation Services' program budget.
2. Authorize Teen Center and Youth Advisory Commission event fees of \$1,000 or less be used to supplement Teen Center or Youth Advisory Commission supplies, services and promotions budget.

*** 9. Receive Status Report on the North San Jose Development Policies Update (Staff Contact: Tambri Heyden, 586-3280)**

Background: At the April 19, 2005 meeting, the City Council approved a draft comment letter to the City of San Jose in regards to the North San Jose Development Policies Update Draft EIR. The letter discussed issues related to wastewater, odors and traffic impacts associated with the EIR analysis of a proposed additional 20 million square feet of new industrial/office/R&D building space and 24,700 new residential unites. Upon receipt of the letter, the City of San Jose met with the City of Milpitas on May 4, 2005 to further discuss the issues identified in the letter.

On May 24, 2005, staff received the First Amendment to the Draft EIR for the North San Jose Development Policies Update (the final EIR). After review of the document by City staff, it was determined the following comments remain unaddressed:

1. The Draft EIR documents significant impacts to transportation corridors within the City. While mitigation measures are identified, no funding mechanism to implement the improvements is included in the document.
2. The Draft EIR documents that as a result of the development policies, there will be an increase in wastewater sent to the treatment plant. Since this is the same facility that the City of Milpitas sends our effluent to, the plan could inhibit future growth in the City by using excess capacity without a commitment to expand the plant in a timely manner. .

Staff is recommending that the identified traffic improvements within the City of Milpitas be included in San Jose's Traffic Impact Fee Program. Staff also recommends that the City of San Jose commit to initiating an expansion study by a date allotted certain or when San Jose reaches 85% of their capacity rather than 85% of plant capacity, whichever comes first.

Recommendation: Direct staff to attend the June 21, 2005, City of San Jose City Council meeting to present the issues in the final EIR comment letter. These issues are further explained, along with suggested mitigation, in the final EIR comment letter that is included in the Council's agenda materials. Staff will be presenting the City's concerns at the City of San Jose's Planning Commission hearing on the project on June 2, 2005.

10. Financial/Statistical Reports Relating to Salary and Benefits Compensation, Salary and Benefits Surveys, and General Fund Projection for the Next Three Years (Staff Contact: Emma Karlen, 586-3145)

Background: During the budget workshop on March 31, the City Council has requested several financial or statistical reports relating to the salaries and benefits compensation to various employee groups, overtime report, salary and benefits surveys, and General Fund projection for the next three years.

Staff has prepared and attached the following reports for Council's information:

- 1) A schedule showing the salary and benefits percentage increase from FY 02-03 to FY 04-05. The schedule uses FY 01-02 as the base year and calculates the percentage increase each year as compared to the previous year for both salary only and salary and benefits combined. The schedule also projects percentage increase for FY 05-06, assuming no salary increases for those employee groups whose MOUs expire on June 30, 2005.
- 2) A report showing longevity pay and the number of eligible employees for FY 04-05. The report also projects longevity pay for FY 05-06 and FY 06-07.
- 3) An Overtime Report by department as of March 31, 2005.
- 4) A schedule comparing Milpitas salary and benefits to ten other similar size cities within the Bay Area for selected positions. This schedule was prepared and provided by Human Resources Department.
- 5) A survey of the same ten cities regarding provision of longevity pay. This survey was conducted and provided by Human Resources Department.
- 6) A survey of personnel cost budget of other neighboring cities.
- 7) A schedule showing personnel cost budget trends for the City of Milpitas in the last nine years.
- 8) General Fund Three year Projection for FY 05-06 through FY 07-08 (working draft only). The assumptions for the projection are listed at the bottom of the schedule.
- 9) A list of unfunded programs or services from each department due to reduced funding.

Recommendation: Receive staff report.

11. Request Further Direction From Council As To Whether City Commissions, Boards, Committees And Other City "Policy Bodies" Should Be listed In The City Council Handbook As An Appendix Which Describes Each Policy Bodies' Primary Functions (Staff Contact: R. Pio Roda, 586-3040)

Background: At the Council's May 3, 2005 meeting, Councilmember Giordano introduced and Council discussed but made no motion and took no action on whether to include in the City Council Handbook an Appendix listing the City's Commissions, Boards, Committees, and other policy bodies and a description of their primary functions and number of members.

Recommendation:

1. Direct staff to prepare an Appendix to the City Council Handbook listing all City Commissions, Boards, Committees and other policy bodies, including information as to the number of members and a description of each policy bodies' primary functions.
2. Direct staff to submit such an Appendix for Council's review and approval at a subsequent Council meeting.

12. Request Further Direction From Council As To Whether (1) The City Should Draft For The Council's Consideration A Zoning Ordinance Amendment Temporarily Prohibiting Medical Marijuana Dispensaries In The City To Allow Staff Time To

Further Study The Issue Or (2) Draft An Ordinance Regulating Medical Marijuana Dispensaries In The City Of Milpitas (Staff Contact: R. Pio Roda, 586-3040)

Background: At the Council's May 17, 2005 meeting, the Council voted down a proposal to pass an urgency ordinance imposing a moratorium on the permitting of medical marijuana dispensaries in the City of Milpitas. The Council did not provide staff further direction as to how to proceed.

Staff requests further direction from Council as to how to proceed to address the issue. Staff presents two options for the Council's consideration:

1. Direct staff to draft a zoning ordinance amendment, to be introduced at the Council's next regularly scheduled meeting, temporarily prohibiting medical marijuana dispensaries for up to 1 year to allow staff time to conduct a study on the secondary effects, current law and regulation, business models and existing City ordinances and implementation plans to fully inform the Council of issues related to medical marijuana dispensaries and their regulation; or
2. Direct staff to draft an ordinance regulating medical marijuana dispensaries in the City of Milpitas, to return to the Council for consideration at an upcoming meeting.

Recommendation: Motion to direct staff implement one of the proposed actions stated above.

13. Consider Request from Milpitas Alliance for the Arts for the City to Contribute \$10,000 to be Used for Future Art in Your Park Projects (Contact: Bonnie Greiner, 586-3227)

Background: The Milpitas Alliance for the Arts is requesting the City to contribute \$10,000 for two future Art in Your Park Projects. The Alliance is currently working on securing a new piece of art at Starlite Park and another piece at one other park to be determined.

Under the new Public Art policy which will be considered by the Council for adoption at its next meeting, all new public art projects will be reviewed and recommended by the new Public Art Committee. Therefore, this will be the final request from the Milpitas Alliance for the Arts for the Council to consider directly. There is sufficient balance left in the City Council's community promotion budget to consider this request.

Recommendation: Consider request.

XIX. ORDINANCES

*** 14. Adopt Ordinance No. 268 Of The City Of Milpitas Levying Special Taxes Within The City Of Milpitas Community Facilities District No. 2005-1 (Public Services) (Staff Contact: Emma Karlen, 586-3145)**

Background: At its May 17th 2005 meeting, the City Council held a public hearing and adopted a Resolution of Formation of Milpitas Community Facilities District No. 2005-1 (Public Services). The Council also adopted a Resolution Calling Special Election Within the District. The results of the Special Election were unanimously in favor of the levy of the special taxes to pay for the costs of parks and streetscape maintenance services. Ordinance No. 268 was introduced at the same Public Hearing

and is now ready for a second reading and adoption. This ordinance authorizes and levies special taxes within the City of Milpitas Community Facilities District No. 2005-1, at the rate and in accordance with the Rate and Method of Apportionment of Special Taxes, as approved by the Resolution of Formation.

Recommendation:

1. Waive full reading of the ordinance beyond the title.
2. Adopt Ordinance No. 268 of the City of Milpitas Levying Special Taxes Within the City of Milpitas Community Facilities District No. 2005-1 (Public Services).

*** 15. Adopt Ordinance Nos. 120.43 and 208.40 of Title VIII Chapters 1 and 2 Setting Utility Rates (Staff Contact: Darryl Wong, 586-3345)**

Background: On May 3, 2005, amendments to ordinances Nos. 120.43 and 208.40 were introduced to the Council. The amendments adjust water, recycled water and sewer rates.

Recommendation:

1. Waive full reading of the ordinances.
2. Adopt Ordinance 120.43 amending sections 6.13, 6.14, 6.15 and 6.16 of Chapter 1, Title VIII, of the Milpitas Municipal Code setting water rates.
3. Adopt Ordinance 208.40 amending section 6.01 of Chapter 2, Title VIII, of the Milpitas Municipal Code setting sewer rates.

XX. RESOLUTIONS

*** 16. Adopt Resolution of Intention to Levy Assessment for Fiscal Year 2005-2006, Preliminary Approving the Annual Engineer's Report and Providing for Notice of Public Hearing: Landscaping and Lighting Maintenance Assessment District No 98-1, Sinclair Horizon, Program 9489 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: Landscaping and Lighting Maintenance Assessment District (LMD) No. 98-1, provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches and Berryessa Creeks abutting the Sinclair Horizon residential subdivision. On May 17, 2005, the City Council directed the City Engineer to prepare an annual engineer's report for LMD 98-1. It is now necessary for the Council to preliminarily approve the Annual Report and set the date of June 21, 2005, for a public hearing. Upon conclusion of the public hearing on June 21, 2005, and subsequent City Council approval of the Annual Engineer's Report, the assessment for the work will be added to the tax bills for those property owners included within the boundaries of the District.

Recommendation: Adopt Resolution Preliminarily approving the Annual Engineer's Report and providing for the notice of public hearing.

*** 17. Adopt Resolution of Intention to Levy Assessment for Fiscal Year 2005-2006, Preliminary Approving the Annual Engineer's Report and Providing for Notice of Public Hearing: Landscaping and Lighting Maintenance Assessment District No 95-1, McCarthy Ranch, Program 9474 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: Landscaping and Lighting Maintenance Assessment District (LMD) No. 95-1, provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and Ranch Drive Gateway Improvements. On May 17, 2005, the City Council directed the City Engineer to prepare an annual engineer's report for LMD 95-1. It is now necessary for the Council to preliminarily

approve the Annual Report and set the date of June 21, 2005 for a public hearing. Upon conclusion of the public hearing on June 21, 2005, and subsequent City Council approval of the Annual Engineer's Report, the assessment for the work will be added to the tax bills for those property owners included within the boundaries of the District.

Recommendation: Adopt Resolution Preliminarily approving the Annual Engineer's Report and providing for the notice of public hearing.

XXI. BIDS AND CONTRACTS

- * 18. **Approve the First Option Year of the Contract with Prolific Screen Printing for the Annual Public Works Garment Purchase (Staff Contact: Chris Schroeder, 586-3161)**

Background: Prolific Screen Printing Company was awarded the bid for the annual purchase of garments for the Public Works Department. The contract was for one (1) year with three (3) additional one (1) year options. The purchase for this year will be the first option year. In accordance with the contract, the vendor is allowed to adjust their prices equivalent to the increase in the Consumer Price Index. However, they have held their pricing for this year, saving the City about 3.1% of the purchase costs. The costs for the purchase will be \$20,700.65 for 251 polo shirts, 796 T-shirts, 337 sweatshirts, 308 ball caps, 92 boonie hats, and 15 safari hats. These garments are required by the Milpitas Employees Association memorandum of understanding and are required to be worn on a daily basis. (Funds are available in the Public Works Department operating budget for this purchase.)

Recommendation: Authorize the City Manager to exercise the first option year of the contract and to purchase 1,799 garments in an amount not to exceed \$20,700.65.

- * 19. **Award Bid for Community Center Furniture (Staff Contact: Chris Schroeder, 586-3161)**

Background: Staff sent bids to nineteen vendors on Purchasing's bidders list for tables and chairs for the Community Center. Seven vendors responded, although only two sent complete bids for all the items in the RFQ.

The following is the recap of the bids received not including tax and delivery:

<u>Bidder</u>	<u>Furniture Bid</u>	
	<u>Tables</u>	<u>Chairs</u>
Del Gavio Group	<u>\$3,404.00</u>	\$28,494.30
One Work Place	\$4,364.69	\$31,019.40
Resource & Design Inc.	No Bid	\$28,243.50
Workspace Innovations	No Bid	\$30,210.00
ATD-American	\$3,771.82	No Bid
Auditoria California	No Bid	<u>\$27,354.30</u>
Office Design & Interiors	No Bid	\$51,213.08

(There are sufficient funds in CIP 8102 for this purchase.)

Recommendation: Since the bid was predicated on the ability of the City to award in any combination, staff recommends awarding the tables to Del Gavio Group for \$3,404.00 plus tax and freight, and the chairs to Auditoria California for \$27,354.30 plus tax and freight. Furthermore staff recommends that the City surplus the old tables and chairs to the Milpitas Municipal School District.

* 20. **Award Bid for Printing the Milpitas Activity Guide (Staff Contact: Chris Schroeder, 586-3161)**

Background: Staff sent bids to eight large capacity printing vendors on Purchasing's bidders list for the setup, printing, and preparation for residential mail delivery of the Milpitas Activity Guide for the Recreation Services Division. The activity guide informs residents of classes and activities that are offered at our Recreation centers. 25,000 copies of the activity guide are printed three times per year. The bid was for a three (3) year term with two (2) one (1) year options based on prior performance and incremental pricing at the City's discretion.

The following is the recap of the bids received including tax and delivery:

<u>Bidder</u>	<u>Activity Guide Bid</u>
Milpitas Post Newspapers, Inc.	\$20,846.13
Sierra Printing	\$20,937.00
Wesco Graphics	\$21,024.17
Frike-Parks Press	\$22,255.92
Folger Graphics	\$23,550.00
Casey Printing, Inc	\$27,708.00
Consolidated Printers	\$32,982.00
Alpha Printing	\$36,269.00

(There are sufficient funds in the Recreation Services Operating budget for printing of the Activity Guide.)

Recommendation: Award the bid for the Activity Guide to the Milpitas Post Newspapers, Inc. as the lowest bidder in the amount of \$20,846.13 and authorize the City Manager to execute the contract, subject to approval as to form by the City Attorney.

* 21. **Amend Master Services Agreement With Gregory B. Bragg & Associates To Extend The Current Agreement Through October 31, 2005 And Increase The Contract Amount Based Upon An Additional Four (4) Months Of Monthly Billings (Staff Contact: Carmen Valdez, 586-3086)**

Background: The City entered into an Agreement on September 1, 2002 with Gregory B. Bragg & Associates to provide services and perform work as the City's Workers' Compensation Third Party Administrator in accordance with any applicable requirements of federal, state or local laws or rules and/or regulations. The term of the original agreement will expire on June 30, 2005.

To ensure that we are receiving quality service, we are committed to researching the market and to bring back a recommendation to City Council to either select a new workers' compensation provider or maintain the current third party administrator. In the meantime staff is requesting that the City Council authorize the Interim City Manager to extend the current agreement with Gregory B. Bragg & Associates and to allow payment of the monthly billing charge. The anticipated charges due to the contract extension include a one-time fee of \$3,750 in addition to an estimated monthly charge of \$10,145. Since the monthly charge is based upon the number of Indemnity Claims existing during the previous month it is difficult to provide an exact amount of funding required for the extended contract period. The estimate of \$10,145 is based upon the average monthly charge incurred thus far in 2005.

There are sufficient funds allocated in the Human Resources 2005-06 proposed budget.

Recommendation: Authorize the Interim City Manager to execute an amendment to the current contract with Gregory B. Bragg & Associates, Inc., to extend the agreement through October 31, 2005 and to approve payments in an amount not to exceed \$44,330 for the administration of the workers' compensation program for the City of Milpitas.

- * 22. **Amend Master Services Agreement With Peelle Technologies To Increase The Contract Amount By \$11,700 For Implementation Services Required To Complete A Software Upgrade To The City's Document Imaging System (Project No. 8131). (Staff Contact: Terry Medina, 586-2703)**

Background: City Council approved funding of \$ 96,300 in a Capital Improvement Program during Fiscal Year 1999/2000 for the purpose of conducting a pilot project for implementing a Document Imaging System within the City of Milpitas. In May 2001, the City Council approved an agreement that provided the City with a document imaging system, computer hardware and preliminary document preparation and scanning services along with system implementation services. The system was installed in June 2001 and there are currently over 3,000,000 images that are now available electronically.

In August 2004, City Council approved a Master Services Agreement with Peelle Technologies (the City's document imaging vendor) to purchase software licenses and to provide certain professional services in order to implement a Public Access Information System (PAIS) that will allow the public to access non-confidential documents via the internet and at the Self Help workstations located at City Hall. In April 2005, City Council approved the 1st Amendment to the Master Services Agreement to increase the amount of the original contract by \$3,000 to pay for previously uncalculated sales tax. A prototype of the Public Access Information System has been developed and is ready for deployment.

In 2003 EMC acquired Legato and began a re-write of their Document Imaging Software. After almost 2 years of development and testing of the new document imaging software it is now available for distribution. The new software provides additional features and enhances the way in which documents are retrieved via the Internet. The City pays an annual licensing fee for the EMC/Legato document imaging software. As a part of the annual fee the City is entitled to any software upgrades that occur during the year. Since the current document imaging software is over 5 years old and may not be supported in the near future it is time to upgrade the software to the newer version. The City's document imaging vendor is available to support the migration to the newer version of the software and will make the necessary changes to the Public Access Imaging System. This request is for approval to upgrade the City's Document Imaging System and the Public Access Imaging System to the most current version of the EMC/Legato document imaging software. The total project cost for services for the software upgrade will not exceed \$11,700.

Funding to support this request is available in Capital Improvement Program 8131 (Information Management).

Recommendation: Authorize the Interim City Manager to approve the 2nd Amendment to the Master Service Agreement between Peelle Technologies and the City of Milpitas increasing the agreement by \$11,700 for a total amount not to exceed \$55,700.

* 23. **Approve Renewal Of Annual Software Support And Maintenance Fees With Various Vendors Through June 2006 (Staff Contact: Terry Medina, 586-2703)**

Background: The City of Milpitas manages numerous computer applications that were developed by various vendors to support the business needs of the City. These systems typically require an active software license and an annual support services fee. The terms of these services vary but for the most part correlate with the City's fiscal year. The following vendors software license and support services will be expiring on or around June 30, 2005 and require renewal in order to continue to use the computer application.

Actuate Corporation for Finance System Tracking and Reporting

In fiscal year 1997/98, the City of Milpitas implemented a new Finance system that supported the financial tracking and reporting needs of the City. The system includes licensed software and maintenance support provided by Cayenta, the vendor of the financial application. Additional reporting capabilities are provided through the Actuate Corporation software. Maintenance and support of the reporting system are provided through the renewal of the annual fee of \$15,298.00.

Granicus for Web Streaming

In fiscal year 2003/04, the City of Milpitas implemented a system to provide live web video streaming of City Council Meetings, Planning Commission Meetings and Special City Events. The system includes licensed software and maintenance support provided by Granicus, the vendor of the streaming media software. Maintenance and support of the system are provided through the renewal of the annual fee of \$9,000.00.

Motorola for Mugshot Instant Image System

In fiscal year 1999/00 the City of Milpitas implemented a system that provides access to the Instant Image Mugshot System. The system includes licensed software and maintenance support provided by Motorola, the vendor of the instant image hardware and software. Maintenance and support of the system are provided through the renewal of the annual fee of \$3,489.98.

Northrop Grumman for Water Meter Reading Hardware and Software

The City of Milpitas provides drinking water to the residents of the City. In order to monitor and charge for water usage the City relies upon water meters that measure the flow of water to a facility. The meters are read and the data captured through hardware and software provided by Northrop Grumman. The system includes licensed software and maintenance support provided by Northrop Grumman, the vendor of the water meter reading system. Maintenance and support of the system are provided through the renewal of the annual fee of \$2,115.96.

Peelle Technologies, Inc. for Document Imaging System

In fiscal year 2001/02, the City of Milpitas implemented a new Document Imaging system using software that supports the electronic retrieval of document images. Maintenance and support of the system are provided through the renewal of the annual fee of \$20,005.68.

Recommendation: Authorize the City Manager to approve the payment of the annual software support and maintenance fees to Actuate Corporation for the Finance System tracking and reporting in the amount of \$15,298.00, Granicus for Web Streaming City Council and Planning Commission Meetings in the amount of \$9,000.00; Motorola for the Mugshot Instant Image System in the amount of \$3,489.98; Northrop Grumman for Water Meter Reading Hardware and Software in the amount of \$2,115.96; Peelle

Technologies, Inc. for the Document Imaging System in the amount of \$20,005.68. There are sufficient funds in the Information Services Operating budget for this request.

- * 24. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: 2005 ADA Sidewalk Ramps (Project No. 4226) (Staff Contact: D. De Vries, 586-3313)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project consists of the installation of eleven ADA sidewalk ramps and minor sidewalk improvements along Escuela Parkway between Washington Drive and Russell Lane. The Engineers estimated construction cost for the work is approximately \$40,000. The project schedule anticipates award for construction in July 2005. A budget appropriation will be proposed once bids are received and a contract award is presented to Council. Funds are available in the Street Fund. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

Recommendation:

1. Approve plans and specifications.
2. Authorize advertising for bid proposals.

- * 25. **Approve Release of Retention: HMH Incorporated, Montague Expressway Widening Project No. 4179 (Staff Contact: G. Armendariz, 580-3317)**

Background: On July 7, 1998, City Council awarded a consultant contract to HMH Incorporated for the design of the Montague Expressway Widening from Great Mall Parkway to Highway 680. Phase I of this project, which improved the Capitol/Great Mall Parkway intersection from Centre Pointe to Union Pacific Railroad (UPRR) rails, was completed in December of 2004. Phase II planned work, to be completed later this year, is the addition of a continuous fourth through lane, east bound from just east of UPRR, and the addition of a fourth through lane westbound from Piper Drive to I-680. The remaining work to be completed will be phased over the next several years as funding and necessary right-of-way become available.

The City currently holds \$ 92,877.26 in retention for this project. Staff recommends that 60% of the retention held in the amount of \$ 56,211.62, for services provided from August 2000 through December 2004, be released. This would leave \$ 36,664.64 in retention held by the City, which is considered reasonable.

The second phase of work to be completed, will require completion and packaging of an additional bid set of plans and specifications for bidding. This will result in additional design costs and a subsequent agreement amendment with HMH, which will be presented to Council for approval in July, 2005.

Recommendation: Authorize the City Manager to release retention, HMH Engineers, in the amount of \$56,211.62.

- * 26. **Reject Bids: Berryessa Pump Station, Project No. 8138 (Staff Contact: Doug De Vries, 586-3313)**

Background: On May 18, 2005, the City Council approved the project plans and specifications and authorized the advertisement for the pre-purchases of equipment for the Berryessa Storm Drain Pump Station. This project provides replacement of three diesel engines, engine and station controls and electrical systems at Berryessa Storm

Pump Station. The station is 24 years old and needs to be rehabilitated. The three engines have exceeded their design (or useful) life and will be replaced. This project also includes replacement of the existing 7.5 horsepower (HP) jockey pump with a 50 HP model to efficiently pump low flows during dry weather with an electric variable speed jockey pump rather than the large pumps that are more costly to operate. Work also includes replacing the existing roof, painting the station, installation of flap-gates on the creek discharge pipes and retrofitting vent pipes per the Storm Drain Master Plan.

This equipment package will include a 50 HP jockey pump, three 185 HP diesel engines, three right angle drives, three 20,000 GPM vertical turbine pumps and minor accessories to make the system operational. Additional improvements such as installation of the engine and pumps, replacing the existing roof, painting the station, and retrofitting of vent pipes will be addressed as part of the construction project, which will commence later this year. The Engineer's estimated equipment package cost was approximately \$300,000.

The project was advertised and sealed bid proposals were opened on May 24, 2005. Only one bid proposal was received. The Cascade Pump Company submitted a conditional bid, which, did not comply with the bid proposal, and therefore it should be rejected. In conformance with Public Contracts Code (PCC) section 20166, the City has fulfilled the bid requirements and staff requests authorization to negotiate with suppliers in order to acquire the necessary equipment for the station improvements. The City Attorney's office concurs with this recommendation.

Recommendation:

1. Reject all bids.
2. Authorize staff to negotiate with suppliers in conformance with Public Contracts Code (PCC) section 20166.

- * 27. **Authorize the City Manager to Execute The Agreement Amendment: Harris & Associates, Milpitas Library Off Site Utility Improvements, Project No. 8153, (Staff Contact: Mark Rogge 586-3403)**

Background: On October 7, 2003, City Council awarded a consultant contract to Harris and Associates for mapping survey, and utility engineering services as part of the library pre-design effort for utilities on Winsor, Weller, and Main Street. The design of this first phase of the project was completed, bid, and awarded to Pacific Underground Construction Inc. for the construction of new utilities required for the new library and Midtown East parking garage. The contractor had started construction late May, and completion is anticipated in September 2005.

Staff now proposes to amend the Harris and Associates contract to include additional construction support services during construction to and assist staff in the review of the contractor construction submittals, requests for information and for the resolution of underground utility conflicts that are anticipated due to the age of the street and utilities. The work is proposed on a time and materials basis with an amount not-to-exceed \$18,000, which is considered reasonable for the work involved. Funds are available in the project budget for this amendment.

Recommendation: Authorize the City Manager to execute the agreement amendment with Harris and Associates in the amount not to exceed \$18,000, subject to approval as to form by the City Attorney.

XXII. CLAIMS AND DEMANDS

* **28. Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$8,679.80 to L.N. Curtis & Sons for four (4) M-40 Industrial Scientific gas detectors and pumps. First responders use these detectors during rescue and mitigation efforts, for air sampling and monitoring of environments exposed to an industrial hazardous materials release or terrorist act. This is a complete package including docking station, printer, regulator, calibration gas, and two (2) year extended warranty. Staff investigated acquisition of competing products but found the RAE Systems "MultiRAE Plus" detector to be cost prohibitive at \$3,100 for the base unit verses \$670 for the M-40 unit. Additionally the M-40 is the detector of choice for our County mutual aid partners and necessary to maintain mutual aid compatibility. Staff is requesting that the equipment be purchased as a sole source procurement as sanctioned in section I-2-5.03-4 of the Milpitas Municipal Code. (Funds are available for this purchase in the Fire Department Operating budget.)
2. \$7,109.95 to Spectracom for the purchase of a GPS Master Clock. During the installation of the new Digital Voice Recorder for the 911 Dispatch Center, it was discovered that the current clocking system is not compatible with the new components. In order for the Voice recorder, the 911 phone system and the Computer Aided Dispatch System to all utilize an accurate synchronized time source; a highly accurate master clock is required. Purchase of this equipment will allow installation of the voice recorder and ensure that all devices in the 911 Dispatch Center operate with a single synchronized time source. The work was performed as an emergency under section I-2-5.04 of the Municipal Code "Emergency Authority of Purchasing Agent". (Funds are available from the Enhanced Public Safety Project - CIP 3389).
3. \$5,500.00, to Maximus for preparing and filing the State Controller's Annual Financial Report and Street Reports for the Finance Department. (Funds are available from the Finance Department operating budget for this service)
4. \$7,800.00 to Mark Thomas to provide surveying/plat & legal description/civil engineering services for a lot line adjustment for the main sewer pump station land survey. (Funds are available from CIP 6079 Main Sewer Pump Station Improvement for this service.)

Recommendation: Approve the purchase requests.

* **29. Approve Budget Appropriation: Building Improvements, Project No. 8135 (Staff Contact: Greg Armendariz, 586-3317)**

Background: In 1999, the City contracted with WATCO as the general contractor for the Main Fire Station, project 8089. The Main Fire Station was completed in June 2001. In October 2002, the City filed a complaint against the designer and construction manager arising out of their work on the Project.

The City and Parties participated in mediation on October 5 and November 16, 2004. On November 16, 2004, a settlement was reached among the Parties resolving all issues and the Parties signed a settlement agreement. The formal Agreement memorializing the settlement was executed in January of 2005.

The complaint by the city was caused by deficiencies found which subsequently required repairs to the deck and mechanical pit as well as additional painting. The deficiencies will be corrected as part of Building Improvements, project 8135. Accordingly, staff recommends that the \$100,000 from the settlement be appropriated into project 8135.

- * 30. **Authorize the Purchasing Agent to Dispose of Surplus Police Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)**

Background: The City has two vehicles that have reached the end of their useful lives. Vehicle No. 467E is a 1994 Crown Victoria that was retired from police service in December 1997 and reassigned to pool service. Vehicle No. 483Z is a 1997 Crown Victoria that was retired from police service in October 2000 and reassigned to pool service. The ending mileages for these two vehicles are 95,652 and 101,797 respectively. Nation Wide Auction estimates the value of these units at auction ranges from \$1,000.00 to \$1,500.00 each. Staff requests authorization to dispose the vehicles at auction pursuant to section I-2-10.03 of the Municipal Code "Disposal of more than \$500."

Recommendation: Approve the request to auction the Police Vehicles.

XXIII. ADJOURNMENT

NEXT REGULARLY SCHEDULED COUNCIL MEETING TUESDAY, JUNE 21, 2005, AT 7:00 P.M.

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION** at the City Attorney's office at the Milpitas City Hall, 455 E. Calaveras Blvd, Milpitas, CA 408-586-3000.

A free copy of the Open Government Ordinance is available from the City Clerk's Office.